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OFFICE OF PETITIONS

In re Application of :
Schmid et al. :
Application No. 10/666,478 :
Filed: 19 September, 2003 :
Attorney's Docket No. 5367-41 :
ON PETITION

This is a decision on the petition filed on 13 February, 2004, requesting that the above-identified application be accorded a filing date of 19 September, 2003, with Page 15 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 19 September, 2003.

Accordingly, on 11 December, 2003, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 19 September, 2003, but that Page 15 of the specification (description and claims) appeared to have been omitted.

In response, on 13 February, 2004, the present petition and a copy of Page 15 of the specification were filed. Petitioners argues that Page 15 was filed with the other application papers on 19 September, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 19 September, 2003, the above-identified application number, and identifies the application by first named inventor's name, docket number, and invention title, and acknowledges receipt of, *inter alia*, "Title Page, Specification, Claims 1 to 18 & Abstract (17 pages [total number of pages of application]); Three (3) sheet(s)

of drawing(s) (Figs. 1 to 3)". Petitioners request that the application, including Page 15 of the specification, be accorded a filing date of 19 September, 2003.

A review of the record reveals that no Page 15 of the specification has been located among the application papers received on 19 September, 2003. However, the evidence is convincing that the application papers deposited on 19 September, 2003, included Page 15 of the specification (description and claims) and abstract, which was subsequently misplaced in the Office. Therefore, the application, including Page 15 of the specification, is entitled to a filing date of 19 September, 2003.

The "Notice" mailed on 11 December, 2003, is vacated to the extend that it stated that Page 15 of the specification appeared to have been omitted.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed with the copy of Page 15 of the specification supplied on 13 February, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 13 February, 2004, using the application papers filed on that date, and the copy of Page 15 of the specification supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.



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